

**WITHERS BERGMAN LLP**  
Hollis Gonerka Bart (HB-8955)  
Chaya F. Weinberg-Brodts (CW-4676)  
430 Park Avenue, 10<sup>th</sup> Floor  
New York, New York 10022  
212.848.9800 (p)  
212.848.9888 (f)

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff,

-against-

BERNARD L. MADOFF INVESTMENT SECURITIES,  
LLC,

Defendants.  
-----X

In re BERNARD L. MADOFF,

Debtor  
-----X

**Adversary Proceeding**

**No. 08-01789 (BRL)**

**SIPA Liquidation**

**OBJECTION TO TRUSTEE  
IRVING PICARD'S  
DETERMINATION OF CLAIM**

Collace Services Limited ("Collace"), by and through its attorney of record,  
Withers Bergman LLP, hereby objects to the determination by Trustee Irving Picard  
denying Collace's claim for the full protection provided under SIPA.

1. Pursuant to the order of this Court dated December 23, 2008, on or about  
June 26, 2009, Collace filed a Claim with the Trustee.
2. By letter dated December 8, 2009, the Trustee informed Collace that  
"[b]ased on a review of available books and records of BLMIS by the Trustee's staff, you  
do not have an account with BLMIS. Because you did not have an account, you are not a

customer of BLMID under SIPA, as that term is defined at 15 U.S.C. § 7811(2).

Accordingly, your Claim for securities and/or a credit balance is **DENIED**.”

3. Indeed, the Trustee sent two separate, but substantively identical, letters to Collace, one denying its claim under Claim Number 013456, and the other denying its claim under Claim Number 013829. Copies of both letters from the Trustee are annexed hereto as Exhibit A. To protect its rights, Collace’s Objection applies to both claim numbers.

4. Collace hereby objects to the Trustee’s determination denying its claim on the basis that the determination that Collace is not a customer is, as a matter of fact and law, incorrect.

5. As the Trustee has previously acknowledged, Madoff structured his scheme such that only a limited number of entities "directly" invested in BLMIS, with investments being made by many investors, such as Collace, through the limited number of feeder funds approved by Madoff. The Trustee, in denying such investors’ claims, has asserted a highly technical interpretation of the relevant SIPA statutes. However, individuals and entities who invested with BLMIS through feeder funds are exactly the type of investors for whom SIPA was enacted to protect, and they should not be penalized because of the structure Madoff himself created to advance his fraud.

6. Upon information and belief, Collace understands that certain legislation has been, or may be, introduced seeking to expressly require SIPC to allow the claims of supposed “indirect investors,” such as Collace. By this Objection, Collace hereby expressly reserves its right to benefit from any such legislation or any other legislative measures taken affecting which claimants may recover from SIPC.

7. Collace refers to the Objections filed by claimants who received letters from the Trustee denying their claims on the basis that they too were not "customers" of BLMIS, and hereby adopts those Objections herein to the extent they are applicable to Collace, and consistent with Collace's position and interests.

8. Collace hereby reserves the right to amend or supplement this Objection, and any failure to object on a particular procedural or substantive ground shall not be deemed a waiver of any such rights.

Dated: February 4, 2010

**WITHERS BERGMAN LLP**

By: Chaya F. Weinberg-Brodt  
Hollis G. Bart (HB-8955)  
Chaya F. Weinberg-Brodt  
430 Park Avenue, 10th Floor  
New York, NY 10022-3505  
Phone: (212) 848-9800  
Fax: (212) 848-9888  
*Attorneys for Collace*

# **EXHIBIT A**

**BERNARD L. MADOFF INVESTMENT SECURITIES LLC**

In Liquidation  
**DECEMBER 11, 2008<sup>1</sup>**

**NOTICE OF TRUSTEE'S DETERMINATION OF CLAIM**

December 8, 2009

COLLACE SERVICES LTD.  
PO BOX 510  
2 HILL ST.  
ST. HELIER, JERSEY JE4 5TR  
UNITED KINGDOM

Dear COLLACE SERVICES LTD.:

**PLEASE READ THIS NOTICE CAREFULLY.**

The liquidation of the business of BERNARD L. MADOFF INVESTMENT SECURITIES LLC ("BLMIS") is being conducted by Irving H. Picard, Trustee under the Securities Investor Protection Act, 15 U.S.C. § 78aaa et seq. ("SIPA"), pursuant to an order entered on December 15, 2008 by the United States District Court for the Southern District of New York.

The Trustee has made the following determination regarding your claim designated as Claim No. 013456:

Based on a review of available books and records of BLMIS by the Trustee's staff, you did not have an account with BLMIS. Because you did not have an account, you are not a customer of BLMIS under SIPA as that term is defined at 15 U.S.C. § 78fff (2). Accordingly, your Claim for securities and/or a credit balance is **DENIED**.

**PLEASE TAKE NOTICE:** If you disagree with this determination and desire a hearing before Bankruptcy Judge Burton R. Lifland, you **MUST** file your written opposition, setting forth the grounds for your disagreement, referencing Bankruptcy Case No. 08-1789 (BRL) and attaching copies of any documents in support of your position, with the United States Bankruptcy Court **and** the Trustee within **THIRTY DAYS** after December 8, 2009, the date on which the Trustee mailed this notice.

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<sup>1</sup> Section 78fff(7)(B) of SIPA states that the filing date is "the date on which an application for a protective decree is filed under 78eee(a)(3)," except where the debtor is the subject of a proceeding pending before a United States court "in which a receiver, trustee, or liquidator for such debtor has been appointed and such proceeding was commenced before the date on which such application was filed, the term 'filing date' means the date on which such proceeding was commenced." Section 78fff(7)(B). Thus, even though the Application for a protective decree was filed on December 15, 2008, the Filing Date in this action is on December 11, 2008.



**PLEASE TAKE FURTHER NOTICE:** If you do not properly and timely file a written opposition, the Trustee's determination with respect to your claim will be deemed confirmed by the Court and binding on you.

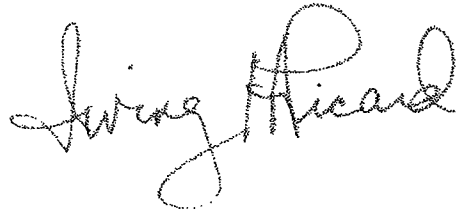
**PLEASE TAKE FURTHER NOTICE:** If you properly and timely file a written opposition, a hearing date for this controversy will be obtained by the Trustee and you will be notified of that hearing date. Your failure to appear personally or through counsel at such hearing will result in the Trustee's determination with respect to your claim being confirmed by the Court and binding on you.

**PLEASE TAKE FURTHER NOTICE:** You must mail your opposition, if any, in accordance with the above procedure, to each of the following addresses:

Clerk of the United States Bankruptcy Court for  
the Southern District of New York  
One Bowling Green  
New York, New York 10004

and

Irving H. Picard, Trustee  
c/o Baker & Hostetler LLP  
Attn: Claims Department  
45 Rockefeller Plaza  
New York, New York 10111



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**Irving H. Picard**

Trustee for the Liquidation of the Business of  
Bernard L. Madoff Investment Securities LLC

cc: CHAYA F. WEINBERG-BRODT  
WITHERS BERGMAN LLP  
430 PARK AVENUE , 10TH FLOOR NEW YORK, NY  
10022

**BERNARD L. MADOFF INVESTMENT SECURITIES LLC**

In Liquidation

**DECEMBER 11, 2008<sup>1</sup>**

**NOTICE OF TRUSTEE'S DETERMINATION OF CLAIM**

December 8, 2009

COLLACE SERVICES LIMITED  
PO BOX 510, 2 HILL STREET  
ST. HELIER, JERSEY, U.K. JE4 5TR  
UNITED KINGDOM

Dear COLLACE SERVICES LIMITED:

**PLEASE READ THIS NOTICE CAREFULLY.**

The liquidation of the business of BERNARD L. MADOFF INVESTMENT SECURITIES LLC ("BLMIS") is being conducted by Irving H. Picard, Trustee under the Securities Investor Protection Act, 15 U.S.C. § 78aaa et seq. ("SIPA"), pursuant to an order entered on December 15, 2008 by the United States District Court for the Southern District of New York.

The Trustee has made the following determination regarding your claim designated as Claim No. 013829:

Based on a review of available books and records of BLMIS by the Trustee's staff, you did not have an account with BLMIS. Because you did not have an account, you are not a customer of BLMIS under SIPA as that term is defined at 15 U.S.C. § 7811(2). Accordingly, your Claim for securities and/or a credit balance is **DENIED**.

**PLEASE TAKE NOTICE:** If you disagree with this determination and desire a hearing before Bankruptcy Judge Burton R. Lifland, you **MUST** file your written opposition, setting forth the grounds for your disagreement, referencing Bankruptcy Case No. 08-1789 (BRL) and attaching copies of any documents in support of your position, with the United States Bankruptcy Court **and** the Trustee within **THIRTY DAYS** after December 8, 2009, the date on which the Trustee mailed this notice.

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<sup>1</sup> Section 7811(7)(B) of SIPA states that the filing date is "the date on which an application for a protective decree is filed under 78eee(a)(3)," except where the debtor is the subject of a proceeding pending before a United States court "in which a receiver, trustee, or liquidator for such debtor has been appointed and such proceeding was commenced before the date on which such application was filed, the term 'filing date' means the date on which such proceeding was commenced." Section 7811(7)(B). Thus, even though the Application for a protective decree was filed on December 15, 2008, the Filing Date in this action is on December 11, 2008.



**PLEASE TAKE FURTHER NOTICE:** If you do not properly and timely file a written opposition, the Trustee's determination with respect to your claim will be deemed confirmed by the Court and binding on you.

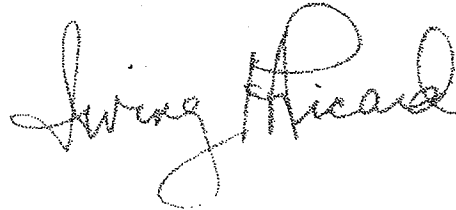
**PLEASE TAKE FURTHER NOTICE:** If you properly and timely file a written opposition, a hearing date for this controversy will be obtained by the Trustee and you will be notified of that hearing date. Your failure to appear personally or through counsel at such hearing will result in the Trustee's determination with respect to your claim being confirmed by the Court and binding on you.

**PLEASE TAKE FURTHER NOTICE:** You must mail your opposition, if any, in accordance with the above procedure, to each of the following addresses:

Clerk of the United States Bankruptcy Court for  
the Southern District of New York  
One Bowling Green  
New York, New York 10004

and

Irving H. Picard, Trustee  
c/o Baker & Hostetler LLP  
Attn: Claims Department  
45 Rockefeller Plaza  
New York, New York 10111

A handwritten signature in dark ink, appearing to read "Irving H. Picard", is written over a horizontal line.

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**Irving H. Picard**

Trustee for the Liquidation of the Business of  
Bernard L. Madoff Investment Securities LLC